



Housing (Scotland) Act 1988

1988 CHAPTER 43

PART II

RENTED ACCOMMODATION

Assured tenancies—rents and other terms

25 **[^{F1}Determination of rent by the First-tier Tribunal]**

- (1) Where, under subsection (3)(a) of section 24 above, a tenant refers to [^{F2}the First-tier Tribunal] a notice under subsection (1) of that section, the [^{F3}First-tier Tribunal] shall determine the rent at which, subject to subsections (2) and (3) below, the [^{F4}First-tier Tribunal considers] that the house might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy—
- (a) which begins at the beginning of the period to which the new rent specified in the notice relates;
 - (b) the terms of which (other than those relating to rent) are the same as those of the tenancy to which the notice relates; and
 - (c) in respect of which the same notices, if any, have been given under any of Grounds 1 to 5 of Schedule 5 to this Act, as have been given (or have effect as if given) in relation to the tenancy to which the notice relates.
- (2) In making a determination under this section, there shall be disregarded any effect on the rent attributable to—
- (a) the granting of a tenancy to a sitting tenant;
 - (b) an improvement carried out by the tenant or a predecessor in title of his unless the improvement was carried out in pursuance of the terms of the tenancy; and
 - (c) a failure by the tenant to comply with any terms of the tenancy.
- (3) In this section “rent” includes any sums payable by the tenant to the landlord on account of the use of furniture or for services [^{F5}or in respect of council tax], whether or not those sums are separate from the sums payable for the occupation of the house concerned or are payable under separate agreements.

Changes to legislation: Housing (Scotland) Act 1988, Section 25 is up to date with all changes known to be in force on or before 29 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) Where any rates in respect of the house concerned are borne by the landlord or a superior landlord, the ^{F6}First-tier Tribunal is to make its determination under this section as if the rates were not so borne.
- (5) In any case where—
- (a) ^{F7}the First-tier Tribunal has before it] at the same time the reference of a notice under section 17(2) above relating to a tenancy (in this subsection referred to as “the section 17 reference”) and the reference of a notice under section 24(1) above relating to the same tenancy (in this subsection referred to as “the section 24 reference”); and
 - (b) the date specified in the notice under section 17(2) above is not later than the first day of the new period specified in the notice under section 24(1) above; and
 - (c) the ^{F8}First-tier Tribunal proposes] to hear the two references together,
- the ^{F9}the First-tier Tribunal] shall make a determination in relation to the section 17 reference before making ^{F9}its] determination in relation to the section 24 reference and, accordingly, in such a case the reference in subsection (1)(b) above to the terms of the tenancy to which the notice relates shall be construed as a reference to those terms as varied by virtue of the determination made in relation to the section 17 reference.
- (6) Where a notice under section 24(1) above has been referred to ^{F10}the First-tier Tribunal], then, unless the landlord and the tenant otherwise agree, the rent determined by the ^{F11}First-tier Tribunal] (together with, in a case where subsection (4) above applies, the appropriate amount in respect of rates) shall be the rent under the tenancy with effect from the beginning of the period to which the new rent specified in the notice relates or, if it appears to the ^{F12}First-tier Tribunal] that that would cause undue hardship to the tenant, with effect from such date as the ^{F11}First-tier Tribunal] may direct (being a date after the beginning of that period but not after the date when the ^{F11}First-tier Tribunal] determined the rent).
- (7) Nothing in this section requires ^{F13}the First-tier Tribunal to continue with its] determination of a rent for a house if the tenancy has been brought to an end by order of the ^{F14}First-tier Tribunal] under this Part of this Act or if the landlord and tenant give notice in writing that they no longer require such a determination.
- (8) Nothing in this section or section 24 above affects the right of the landlord and the tenant under an assured tenancy to vary by agreement any term of the tenancy (including a term relating to rent).

Textual Amendments

- F1** S. 25 heading substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **Sch. 2 para. 2(5)** (with Sch. 1)
- F2** Words in s. 25(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **Sch. 2 para. 2(4)(a)(i)** (with Sch. 1)
- F3** Words in s. 25(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **Sch. 2 para. 2(4)(a)(ii)** (with Sch. 1)

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- F4** Words in s. 25(1) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(a)(iii)** (with Sch. 1)
- F5** Words in s. 25(3) inserted (1.4.1993) by S.I. 1993/658, art. 2, **Sch. 1 para.9**
- F6** Words in s. 25(4) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(b)** (with Sch. 1)
- F7** Words in s. 25(5)(a) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(c)(i)** (with Sch. 1)
- F8** Words in s. 25(5)(c) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(c)(ii)** (with Sch. 1)
- F9** Words in s. 25(5) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(c)(iii)** (with Sch. 1)
- F10** Words in s. 25(6) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(d)(i)** (with Sch. 1)
- F11** Words in s. 25(6) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(d)(ii)** (with Sch. 1)
- F12** Words in s. 25(6) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(d)(iii)** (with Sch. 1)
- F13** Words in s. 25(7) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **Sch. 2 para. 2(4)(e)** (with Sch. 1)
- F14** Words in s. 25(7) substituted (1.12.2017) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **sch. 1 para. 40**; S.S.I. 2017/330, art. 3, sch.

Modifications etc. (not altering text)

- C1** S. 25 modified (temp.) (28.10.2022) by virtue of Cost of Living (Tenant Protection) (Scotland) Act 2022 (asp 10), s. 13(1), **sch. 1 para. 2(1)(2)(6)** (with ss. 1(2), 6, 7, 8) (as amended (1.4.2023) by S.S.I. 2023/82, regs. 1(3), **2(2)**); and (27.9.2023) by S.S.I. 2023/275, regs. 1(2), **2(2)**

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 66(1)(aa) and word inserted by [2001 asp 10 s. 50\(2\)\(c\)](#)
- s. 66(2A) inserted by [2001 asp 10 s. 50\(3\)](#)
- s. 66(5A) inserted by [2001 asp 10 s. 50\(4\)](#)
- sch. 17 para. 19-26 repealed by [2014 asp 14 sch. 2 para. 5\(4\)](#)